

आयकर अपीलिय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "SMC" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य के समक्ष  
BEFORE: HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

आयकर अपील सं./ITA Nos. 428, 429 & 430/JP/2022  
निर्धारण वर्ष/Assessment Years : 2016-17, 17-18 & 18-19.

Girnar Software Pvt. Ltd., 6 <sup>th</sup> Floor, Jaipur Textile Market, Malviya Nagar, Jaipur.	बनाम Vs.	The ACIT, Circle – 4, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No. AACCG 7277 J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Yogesh Parwal, CA and  
Shri P.C. Parwal, C.A.

राजस्व की ओर से / Revenue by : Shri Anoop Singh (Addl.CIT)

सुनवाई की तारीख / Date of Hearing : 11/01/2023  
उदघोषणा की तारीख / Date of Pronouncement: 5/04/2023

आदेश / ORDER

PER: SANDEEP GOSAIN, J.M.

These three appeals by the assessee are directed against three separate orders of Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi all dated 13.10.2022 for the assessment years 2016-17, 17-18 & 18-19. The assessee has raised the following grounds of appeal :-

**ITA No. 428/JP/2022 A. Y. 2016-17 :**

1. Based on the facts and circumstances of the case and in law, the CIT (A) has erred in not allowing interest under section 244A of the Act to the extent of Rs. 7,79,890/- by holding that interest under section 244A of the Act is allowable from 1.4.2016 to 30.12.2018 (date of passing of assessment order), ignoring that as per section 244A of the Act interest is allowable till the date of grant of refund i.e. till 04.06.2019, being the date on which refund is actually granted.

2. Based on the facts and circumstances of the case and in law, the CIT (A) has erred in stating that prima facie the appeal is not admissible stating that the intimation/notice of demand is sent online and therefore there can be no delay in service of notice of demand as claimed by the Assessee without appreciating that the Hon'ble Supreme Court of India had extended the period of limitation by 90 days from 03.10.2021 where the limitation expires between 15.03.2020 till 02.10.2021 vide order MA No. 665 dated 2021 dated 23 September, 2021.
3. The appellant craves to alter, amend and modify and ground of appeal.

**ITA No. 429/JP/2022 A. Y. 2017-18 :**

1. Based on the facts and circumstances of the case and in law, the CIT (A) has erred in not allowing interest under section 244A of the Act to the extent of Rs. 9,52,842/- by holding that interest under section 244A of the Act is allowable from 1.4.2017 to 24.12.2019 (date of passing of assessment order), ignoring that as per section 244A of the Act interest is allowable till the date of grant of refund i.e. till 10.06.2020, being the date on which refund is actually granted.
2. Based on the facts and circumstances of the case and in law, the CIT (A) has erred in stating that prima facie the appeal is not admissible stating that the intimation/notice of demand is sent online and therefore there can be no delay in service of notice of demand as claimed by the Assessee without appreciating that the Hon'ble Supreme Court of India had extended the period of limitation by 90 days from 03.10.2021 where the limitation expires between 15.03.2020 till 02.10.2021 vide order MA No. 665 dated 2021 dated 23 September, 2021.
3. The appellant craves to alter, amend and modify and ground of appeal.

**ITA No. 430/JP/2022 A. Y. 2018-19 :**

1. Based on the facts and circumstances of the case and in law, the CIT (A) has erred in not allowing interest under section 244A of the Act to the extent of Rs. 15,26,880/- by holding that interest under section 244A of the Act is allowable from 1.4.2018 to 12.11.2019 [(date of passing of intimation under section under section 143(1)], ignoring that as per section 244A of the Act, interest is allowable till the date of grant of refund i.e. till 27.07.2020, being the date on which refund is actually granted.
2. The appellant craves to alter, amend and modify and ground of appeal.

Since grounds are raised in all these appeals are common, except figures, therefore, for the sake of convenience, we have heard all these appeals together and are being decided by this combined order. Appeal in ITA No. 428/JP/2022 is being taken as lead case and the decision arrived at will be applicable to other appeals.

**Ground No. 1 relates to not allowing interest under section 244A of the I.T. Act, 1961.**

2. The brief facts of the case are that the assessee is the Appellant is engaged in the business of providing online search related services, information about new and used automobiles to the consumers and automobile dealers. The Appellant filed revised return of income on 20 May 2017 claiming a refund of Rs 2,59,96,300/-, which was on account of tax deducted at source. Assessment order under section 143(3) of the Income-tax Act, 1961 was issued by the Assessing Officer on 30 December 2018 along with the computation sheet determining refund of Rs. 2,59,96,301/-. Interest under section 244A of the Act was granted by the AO amounting to Rs. 40,29,427/- which was calculated from 1 April 2016 to 31 October 2018 i.e. for a period of 31 months. The refund was received by the appellant only on 4 June 2019 in its bank account i.e. after 6 months of passing of assessment order.

2.1 The Appellant filed an application for rectification under section 154 of the Act with the AO and requested to grant interest under section 244A till the date of actual grant of refund amount i.e. till 4 June 2019 amounting to Rs 50,69,279/- for 39 months. The AO allowed partial relief by allowing interest till the date of passing of the assessment order - from 1 April 2016 to 31 December 2018 i.e. for 33 months

amounting to Rs. 42,89,390/- by passing order under section 154 of the Act dated 16 July 2021. Aggrieved by the order of the AO, the Appellant filed an appeal before the National Faceless Appeal Centre (NFAC) and requested the Learned Commissioner of Income Tax (Appeals) to grant additional interest of Rs. 7,79,889/- (Rs 50,69,279 –Rs. 42,89,390) under section 244A(1) of the Act. The Ld CIT(A) vide order dated 13 October 2022 dismissed the appeal filed by the Appellant by following the decision of the jurisdictional Rajasthan High Court in the case of Rajasthan State Electricity Board vs. Commissioner of Income-tax, in IT Appeal No. 205 of 2004 dated 10 November 2005. Aggrieved by the order of the Id. CIT (A), the assessee has filed the present appeal before the Tribunal.

3. Before me, the Id. Counsel for the assessee submitted the written submission as under :-

“ Interest on income tax refund is allowable under section 244A of the Act which is reproduced below (as per Finance Act 2015):

**"Interest on refunds.**

**244A.** (1) *Where refund of any amount becomes due to the assessee under this Act, he shall, subject to the provisions of this section, be entitled to receive, in addition to the said amount, simple interest thereon calculated in the following manner, namely:—*

*(a) where the refund is out of any tax paid under section 115WJ or collected at source under section 206C or paid by way of advance tax or treated as paid under section 199, during the financial year immediately preceding the assessment year, **such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period from the 1st day of April of the assessment year to the date on which the refund is granted***

*Provided that no interest shall be payable if the amount of refund is less than ten per cent of the tax as determined under sub-section (1) of section 115WE or sub-section (1) of section 143 or on regular assessment;*

*(b) in any other case, such interest shall be calculated at the rate of one-half per cent for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.*

*Explanation.—For the purposes of this clause, "date of payment of tax or penalty" means the date on and from which the amount of tax or penalty specified in the notice of demand issued under section 156 is paid in excess of such demand.*

*(2) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee, whether wholly or in part, the period of the delay so attributable to him shall be excluded from the period for which interest is payable, and where any question arises as to the period to be excluded, it shall be decided by the [Principal Chief Commissioner or] Chief Commissioner or [Principal Commissioner or] Commissioner whose decision thereon shall be final.*

*(3) Where, as a result of an order under sub-section (3) of section 115WE or section 115WF or section 115WG or sub-section (3) of section 143 or section 144 or section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest paid and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly.*

*(4) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989, and subsequent assessment years:*

***Provided*** *that in respect of assessment of fringe benefits, the provisions of this sub-section shall have effect as if for the figures "1989", the figures "2006" had been substituted."*

(emphasis supplied)

(2) As evident from above, as per section 244A(1)(a) of the Act, where refund is arising, *inter-alia*, out of TDS, interest on refund has to be calculated at the rate of 0.5 percent for every month or part of a month comprised in the period

from the 1st day of April of the assessment year to the date on which the refund is granted. Refund is granted when the refund voucher is actually signed by the concerned income tax officer and approved on the income tax department internal portal and, ideally, there is no material gap between date of signing of the refund voucher and actual receipt of the refund amount in the bank account of an assessee. However, where refund amount is determined in the computation sheet annexed to the assessment order, only refund amount is 'determined' and 'not granted' till the time the refund voucher is prepared and approved as per the internal administrative process.

(3) In the instant case, interest on income tax refund has been computed till the date of passing of the assessment order ie 30 December 2018, however, the refund was actually granted/ received by the Appellant only on 4 June 2019 and therefore as per section 244A of the Act, interest should be computed till 4 June 2019 ie for the period 1 April 2016 to 4 June 2019 – for 39 months amounting to Rs 50,69,279 as against Rs 42,89,390 computed till 30 December 2018 for 33 months.

(4) Prior to insertion of section 244A of the Act, interest on delayed refunds were granted under section 243 of the Act which was applicable upto or prior to 1 April 1989. The CBDT by a Circular No. 20-D (XXII-22) of 1968, dated 20 August 1968 clarified in relation to the words "to the date of the order granting the refund" used in section 243 as under:

*"Under the terms of s. 243, interest is payable by the Government where the refund is not granted within three months from the date on which the total income is determined and the interest where payable is to be calculated at the specified rate, from the date immediately following the expiry of the three months aforesaid **to the date of the order granting the refund. From this, it is clear that the date of the order granting the refund is the date of the refund voucher itself. The view stated to have been taken by some ITOs, that the date of the assessment order is to be taken as the 'date of order the granting the refund' is not correct. Thus, in cases where interest is payable by the Central Government to assessee under s. 243 of the Act, such interest is to be calculated up to the date of issue of the refund voucher.**"*

Thus, interest has to be granted till the date of issue of refund voucher and not only upto the date of passing of the assessment order. The language used in section 244A of the Act 'to the date on which the refund is granted' is similar to language used in section 243 of the Act and therefore reliance can be placed on

the above circular issued by the CBDT for the purpose of determining the meaning of term 'to the date on which the refund is granted'.

(5) Also, reliance in this regard is placed on the following direct case laws which have held that interest on income tax refund is to be granted till the date of actual receipt of the income tax refund amount in the bank account of the assessee :

- **Jay Bros Investment & Trading Co (P) Ltd vs DCIT (2000) 19 CCH 0353 MumTrib dated 6 November 2000 (PB 16-19)** – The Hon'ble Mumbai Bench of Income Tax Appellate Tribunal held as under:

"7. We have carefully considered the rival submissions and perused the record. In our view, the plea of the assessee deserves favourable consideration. **In several cases, where a refund has to be granted to the assessee, the Revenue officials used to take longer time in clearing such refunds resulting in considerable hardship to the assessee and with a view to expedite grant of refund, a uniform period of three months has been specified in ss. 243 and 244 by Taxation Laws (Amendment) Act, 1970. If there is delay beyond the period of three months, IT Act provided for payment of interest to the assessee by the Central Government. While implementing the provisions of s. 243 of the Act, it was again found that the AO gave a different interpretation of the said section which is not intended by the Government. With a view to clarify the issue, the CBDT issued a circular (extracted above). It may also be noted that s. 243 is operative upto asst. yr. 1988-89 only whereas s. 244A comes into effect from 1st April, 1989 in lieu of ss. 214, 243 and 244 as clarified by the CBDT in its Circular No. 549 dt. 31st Oct., 1989, [published at (1990) 82 CTR (St) 1]. Therefore, it is clear that the circular issued in connection with s. 243 of the IT Act equally applies to s. 244A. It also appeals to logic that interest has to be paid till the date of preparation of cheque as otherwise the purpose of granting interest would be defeated because in the Government departments there may be long gap between the formal order and the date of preparation of cheques. The CBDT categorically stated that interest has to be granted upto the date of refund voucher. In fact, the cheque issued by the Government is known as "Income Tax Refund Order". Therefore, it is proper to assume that the words "on which the refund is granted" in s. 244A mean the date of signing the Income-tax Refund Order i.e., the refund voucher. We, therefore, direct the AO to calculate interest payable to the assessee from first day of April of the assessment year to the date on which the refund voucher is signed. Considering the circumstances of the case, we are also of the view that it is a fit case for awarding costs to the assessee under s. 255(2B) of the Act. In our view, awarding cost of Rs. 3,000 would meet the ends of justice and we**

hereby direct the respondent to deposit the cost with the Dy. Registrar, Tribunal (Mumbai Zone) within one month from the date of receipt of the order and the Registry is further directed to collect the cost and pay the same to the assessee upon presenting an application to that effect.

(emphasis supplied)

- **Indo Gulf Corporation Ltd. Vs. Deputy Commissioner of Income Tax (2011) 61 DTR 0203 dated 15 July 2011 (PB 20-34):** The Hon'ble Lucknow Bench of Income Tax Appellate Tribunal held as under:

*"9.1 As per provisions contained in cl. (b) of sub-s. (1) of s. 244A of the IT Act, the interest shall be calculated for every month or for part of the month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted. **The crucial words are "the date on which the refund is granted". In the present case, the AO prepared the refund voucher on 17th Jan., 2006, however approval was taken as per the instructions of the CBDT from the higher authorities, which was granted only on 29th May, 2006 and the refund voucher No. 414611 was issued on the said date i.e. 29th May, 2006. In the present case, it appears that the delay occurred in taking administrative approval, so the delay was due to the internal working of the Department, which was not attributable to the assessee; as such, the assessee was entitled to interest upto the date on which the refund has been issued. In the present case, the refund was granted to the assessee only on 29th May, 2006 and therefore, the assessee was entitled for interest upto the said date.***

**9.1(i) The aforesaid view is in consonance with the ratio laid down by the Hon'ble Delhi High Court in the case of CIT vs. Sutlej Industries Ltd. (2010) 37 DTR (Del) 25 wherein it has been held as under:**

*"On an analysis of s. 244A it is seen that where 'refund of any amount' becomes due to the assessee, the assessee is entitled to simple interest thereon. The mode and manner of calculating such interest are laid down in cls. (a) and (b) of sub-s. (1) of the said section. Where the refund is out of prepaid taxes, interest is calculated in terms of s. 244A(1)(a). Where the refund is of taxes paid other than prepaid taxes covered in cl. (a), the computation of interest is for the period prescribed in cl. (b), sub-s. (1) of the said section. The tax due on the returned income has to be paid by way of TDS (s. 199), advance tax (s. 209) or by way of self-assessment tax (s. 140A). In addition, where the assessment is completed at an income higher than the returned income, the tax payable by the assessee is specified in the notice of demand issued under s. 156. Where there is a shortfall in payment on tax vis-a-vis the tax finally due on the assessed income, the assessee is liable to pay interest under s. 234B. Conversely, where the Revenue makes a high-pitched assessment which is subsequently reduced/modified in appeal,*

*any payments of taxes made, which are subsequently refunded as a consequence of relief obtained in appeals etc., are monies legitimately belonging to the taxpayers and wrongly withheld by the Government. This is based on the principle that if the Revenue had, in the first instance, made correct assessment of the tax liability of the assessee, the assessee would not have been deprived by the use of money. In such a situation, where prepaid taxes are in excess of the assessed tax, the assessee is entitled to refund of such tax along with interest thereon. Where an assessee out of abundant caution pays self-assessment tax whilst staking a claim in the return, which claim is accepted, resulting in refund of self-assessment tax, the assessee should be equally entitled to interest thereon. Sec. 244A was inserted in the statute as a measure of rationalization to ensure that the assessee is duly compensated by the Government, by way of payment of interest for monies legitimately belonging to the assessee and wrongfully retained by the Government, without any gaps. Therefore, where the self-assessment tax paid by the assessee under s. 140A is refunded, the assessee should be, on principle entitled to interest thereon since the self-assessment tax falls within the expression 'refund of any amount'. **The computation of interest on self-assessment tax has to be in terms of s. 244A(1)(b), i.e., from the date of payment of such amount upto the date on which refund is actually granted. Even otherwise, it is trite law that wherever the assessee is entitled to refund, there is statutory liability on the Revenue to pay the interest on such refund on general principles to pay the interest on sums wrongfully retained.—CIT vs. Cholamandalam Investment & Finance Co. Ltd. (2007) 211 CTR (Mad) 384 : (2007) 294 ITR 438 (Mad) concurred with; Sandvik Asia Ltd. vs. CIT (2006) 200 CTR (SC) 505 : (2006) 280 ITR 643 (SC) followed.***

**9.2 In the present case also, there was statutory liability on the Revenue to pay the interest on the refund which was retained for seeking the administrative approval. As the refund was granted to the assessee only on 29th May, 2006, therefore, the assessee was entitled for the interest upto the said date and the AO was not justified in granting the interest only upto January, 2006."**

(emphasis supplied)

- **Rajasthan State Industrial Development & Investment Corporation Ltd. Vs. Assistant commissioner of income tax(2018) 193 TTJ\_UO (JP)(PB 35-39)**—The Jaipur Bench of Income Tax Appellate Tribunal held as under:

**14. In light of s. 244A, r. 119A and the legal proposition so laid down by the Hon'ble Rajasthan High Court in case of Rajasthan State**

***Electricity Board (supra), and Hon'ble Gujarat High Court in case of Arvind Mills (supra), in the instant case, where the assessee has paid the taxes and such taxes have been refunded, the assessee is to be paid interest at the prescribed rate for every month or part of a month comprising the period from the date of payment of the tax to the date on which the refund is granted. If such period is a fraction of a month, the same shall be deemed to be a full month and the interest shall be calculated for the entire month accordingly. Therefore, in order to ascertain for how many months the assessee would be entitled to receive interest, the number of months comprised in the period shall have to be determined and the term 'month' has to be given the ordinary sense of the term i.e., 30 days of period and not the British calendar month as defined under s. 3(35) of the General Clauses Act. The dates of payment of tax demand has been stated by the learned Authorised Representative as 29th Feb., 2008, 4th Feb., 2008 and 3rd Feb., 2009. The date on which the refund is granted is the date of the refund voucher/order which is signed and issued on 9th June, 2010. The AO shall verify the date of payment of taxes and taking the date of grant of refund as 9th June, 2010, determine the number of months for which the interest is payable at the prescribed rate of interest in light of above discussions and the interest so determined is directed to be paid to the assessee.***

- **Ingenico International India Pvt Ltd Vs JCIT [W.P.(C) 5570/2022] dated 4 April 2022 (PB 40-43):** (Delhi High Court )
- **Wabtec Locomotive Private Limited (Earlier Known as Ge Diesel Locomotive Private Limited) vs ACIT W.P.(C) 4405/2022 dated 11 May 2022 (PB 45-47):** (Delhi High Court)

(6) The Ld CIT(A) has relied upon the decision of the jurisdictional Rajasthan High Court in the case of Rajasthan State Electricity Board vs. Commissioner of Income-tax, Income Tax Appeal No 205 of 2004 dated 10 November 2005 (PB 50-52) to deny interest to the Appellant upto the actual date of grant of refund amount. It is submitted that reliance placed by the Ld CIT(A) is incorrect due to the following reasons:

- The relevant paragraph of the decision of the Rajasthan High Court is reproduced as under, for your honours kind reference:

*"2 The limited controversy in this appeal is whether the interest should be granted till the date of the despatch of the refund order or till the date when the order regarding payment of interest has been signed. The relevant*

*provision is cl. (a) of sub-s. (1) of s. 244A of the IT Act. For ready reference, that reads as under:*

*"Where the refund is out of any tax collected at source under s. 206C or paid by way of advance tax or treated as paid under s. 199, during the financial year immediately preceding the assessment year, such interest shall be calculated at the rate of two-third per cent for every month or part of a month comprised in the period from the 1st day of April of the assessment year to the date on which the refund is granted."*

**3. In cl. (a) the words have been used "refund is granted". Refund is granted the moment concerned officer has signed the order regarding payment of the interest under s. 244A of the IT Act."**

- (7) It is humbly submitted that the Rajasthan High Court has observed that refund is granted when the order regarding payment of interest is signed. **The Hon'ble Jaipur Bench of Tribunal in the case of Rajasthan State Industrial Development & Investment Corporation Ltd. Vs ACIT (supra) at para 14 of the order after considering the decision of Rajasthan High Court in the case of Rajasthan State Electricity Board vs CIT (supra) held that date on which the refund is granted is the date on which the refund voucher/ order is signed and issued.** Hence, Ld. CIT (A) has not correctly interpreted the decision in case of Rajasthan State Electricity Board vs CIT (supra) while dismissing the appeal of the Appellant.
- (8) Further, it is submitted that delay in granting of income tax refund amount to the Appellant cannot be due to the Appellant as the bank account mentioned in the income tax return (**PB 3**) for granting the income tax refund amount is successfully validated on the income tax e-filing portal since 1 July 2016. Screenshot of the income tax e-filing portal evidencing validation of the ICICI bank account number ending 6543 for grant of income tax refund is enclosed at **PB 53-54**.

Thus, when the bank account is successfully validated and available with the income tax department to credit the refund amount, the delay in grant of refund by 6 months cannot be due to the Appellant.

**In light of the above, it is humbly requested to the Hon'ble Bench to kindly pass order allowing plea of the Appellant and granting interest on**

**income tax refund till the date of actual grant of refund/ receipt of income tax refund amount by the Appellant ie till June 2019 for 39 months amounting to Rs 50,69,279 i.e. differential interest of Rs 7,79,890 be allowed to the Appellant."**

4. On the other hand, the Id. D/R placed reliance on the orders of the Revenue authorities.

5. I have heard and considered the contentions of Id. Counsels of both the parties, perused the submissions/material available on record and gone through the orders of the revenue authorities. At the outset, I find that as per section 244A(1) of the IT Act, 1961, interest has to be granted upto the date of 'grant of refund'. The CBDT vide Circular No. 20-D (XXII-22) of 1968, dated 20 August 1968 clarified that in cases where interest is payable by the Central Government to assessee under section 243 of the Act, such interest is to be calculated up to the date of issue of the refund voucher. The language used in section 244A of the Act is similar to language used in section 243 of the Act and therefore reliance can be placed on the above Circular issued by the CBDT. Various case laws referred above relied upon by the assessee also supports the arguments put-forth by the Id. A/R of the assessee. However, the date of issue of the refund voucher is not available on record, only the date on which the refund was received by the assessee in its bank account is available. Therefore, the AO is directed to verify the date of signing of the refund voucher and grant interest u/s 244A upto that date. In case the required information i.e. the date of signing of the refund voucher is not available due to any reason, the interest be granted till the date of credit of refund amount in bank

account of the Assessee. He is also directed to decide this issue within a period of 4 (four) weeks from the date of receipt of this order.

**GROUND NO. 2**

6. In ITA No. 428/JP/2022 and in ITA No. 429/JP/2022, ground no. 2 raised by the assessee is against the observation of Id. CIT (A) that the appeal filed before him is delayed and, therefore, prima facie the appeal is not admissible. However, we find that Hon'ble Supreme Court of India by taking Suo Moto cognizance of the difficulties that might be faced by the litigants in filing petitions/applications/suits/appeals all other proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central and/or State), vide Order in Miscellaneous Application No. 665 of 2021 in SMW(C) No. 3 of 2020 dated 23<sup>rd</sup> September, 2021 has extended the period of limitation by 90 days from 03.10.2021. Thus, following the decision of the Hon'ble Supreme Court, supra, I am of the view that the appeal filed by the assessee before Id. CIT (A) on 24.11.2021 is in time. Thus, the observation of Id. CIT (A) that prima facie appeal is not admissible is incorrect. The ground is disposed off accordingly.

**ITA NOS. 429 & 430/JP/2022 A.Ys. 2017-18 & 18-19.**

7. Grounds raised in these appeals are exactly similar to grounds raised in ITA No. 428/JP/2022 for the assessment year 2016-17. Since I have adjudicated the issues raised in ITA No. 428/JP/2022 and allowed the appeal of the assessee, accordingly following the decisions arrived at, supra, I allow the appeals for assessment years 2017-18 and 18-19 on the terms mentioned supra.

8. In the result, appeals of the assessee are allowed for statistical purposes as per the directions above.

Order pronounced in the open court on 5/04/2023.

Sd/-  
(संदीप गोसाईं)  
(SANDEEP GOSAIN)  
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 5/04/2023.

Das/

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant-M/s. Girnar Software Pvt. Ltd., Jaipur.
2. प्रत्यर्थी / The Respondent- The ACIT Circle-4, Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 428-430/JP/2022}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar